



THE MARYLAND GENERAL ASSEMBLY
ANNAPOLIS, MARYLAND 21401-1991

JOINT COMMITTEE ON ADMINISTRATIVE, EXECUTIVE, AND LEGISLATIVE REVIEW

Memorandum

To: Members of the AELR Committee
Standing Committee Chairs

From: Marie H. Razulis, AELR Committee Counsel
George H. Butler, Jr., AELR Committee Counsel
Crystal L. Lemieux, AELR Committee Counsel

Date: August 26, 2016

Re: **Synopses of Regulations received from 8/12/2016 through 8/25/2016**

Enclosed please find synopses of regulations received by the AELR Committee during the weeks noted above.

The Office of Policy Analysis prepares analyses of the regulations to determine if there are any problem areas, to ensure that the regulations comply with statutory authority and legislative intent, and to assess the fiscal impact of the regulations. If any regulation is of particular interest to you, please feel free to contact us at 410-946-5350 and we will supply you with a copy of the regulation along with the legal and fiscal analysis.

/catz

cc: Victoria L. Gruber
Alexandra Hughes

Health and Mental Hygiene, Department of

Emergency/Proposed Regulations

DLS Control No. 16-182

Department of Health and Mental Hygiene:

Health Services Cost Review Commission:

Rate Application and Approval Procedures: COMAR 10.37.10.03

According to the department, the purpose of this action is to extend a moratorium on the filing of regular rate applications given the progression of the all-payer model.

Proposed Regulation

DLS Control No. 16-184

Department of Health and Mental Hygiene:

Preventive Medicine:

Insect Sting Emergency Treatment Program: COMAR 10.52.16.01 through .15

According to the department, the purpose of this action is to repeal the chapter regarding the insect sting emergency treatment program because the authority for this program was repealed by Chapter 342 of 2015.

Proposed Regulation

DLS Control No. 16-185

Department of Health and Mental Hygiene:

Board of Dental Examiners:

Rules of Procedure for the Disciplinary Process: COMAR 10.44.07.05

According to the department, the purpose of this action is to permit any member of the Board of Dental Examiners to sign a Board initiated complaint. Under the existing regulations, a complaint initiated by the Board must be signed only by an officer of the Board. The amendment will comport the regulation with § 4-316(c) of the Health Occupations Article, which does not limit the signing of Board initiated complaints to Board officers.

Proposed Regulation

DLS Control No. 16-186

Department of Health and Mental Hygiene:

Mental Hygiene Regulations:

Fee Schedule – Mental Health Services – Community-Based Programs and

Individual Practitioners: COMAR 10.21.25.03-2, .05 through .13

According to the department, the purpose of this action is to increase the reimbursement rate for community behavioral health providers.

Proposed Regulations

DLS Control No. 16-187

Department of Health and Mental Hygiene:

Freestanding Ambulatory Care Facilities:

Freestanding Birthing Centers: COMAR 10.05.02.01 and .06

According to the department, the purpose of this action is to establish standards to ensure quality of care and patient safety for the use of ultrasound imaging in a freestanding birthing center in accordance with Chapters 409 and 410 of 2016.

Proposed Regulations

DLS Control No. 16-188

Department of Health and Mental Hygiene:

Board of Professional Counselors and Therapists:

**Supervision Requirements for Licensed Clinical Marriage and Family Therapists
and Licensed Graduate Marriage and Family Therapists:**

COMAR 10.58.15.03 and .04

According to the department, the purpose of this action is to (1) clarify that 80% of the required supervised clinical experience hours for a licensed graduate marriage and family therapist shall be completed under the supervision of a Board of Professional Counselors and Therapists-approved licensed clinical marriage and family therapist and the remaining 20% of the required supervised clinical experience hours may be completed by a certain mental health care provider, provided they can document a certain amount of experience providing marriage and family therapy services; and (2) correct an inconsistency with COMAR 10.58.08.03C(2).

Proposed Regulation

DLS Control No. 16-189

Department of Health and Mental Hygiene:

Board of Podiatric Medical Examiners:

Licensing and Continuing Education Requirements: COMAR 10.40.02.03

According to the department, the purpose of this action is to require applicants for initial licensure to submit to a criminal history records check as part of the application process as required by § 16-302.1 of the Health Occupations Article. In addition, this proposal will prohibit the Board of Podiatric Medical Examiners from issuing an initial license until the criminal history records check information has been received.

Proposed Regulations

DLS Control No. 16-193

Department of Health and Mental Hygiene:

Board of Chiropractic Examiners:

General Regulations: COMAR 10.43.01.01 through .06

Advertising: COMAR 10.43.03.01 through .03

Licensure by Credentials for Chiropractors: COMAR 10.43.04.01

Chiropractic Externship Program: COMAR 10.43.05.02 and .03

Fees: COMAR 10.43.06.02 through .05

Chiropractic Assistants: COMAR 10.43.07.01 and .09

Licensure and Registration Examination - Special Needs Applicants:

COMAR 10.43.08.01 and .02

Monetary Penalties: COMAR 10.43.09.02

Continuing Education Requirements: COMAR 10.43.10.02

Licensure Examination: COMAR 10.43.11.02

Procedures for Clinical Demonstrations in Public Places:

COMAR 10.43.12.01 through .07

Code of Ethics: COMAR 10.43.13.01 through .10

Record Keeping: COMAR 10.43.14.02

Sanctioning Guidelines: COMAR 10.43.15.02

Board of Massage Therapy Examiners:

General Regulations: COMAR 10.65.01.01 through .14

Rules of Procedure for Board Hearings: COMAR 10.65.02.01 through .09

Code of Ethics: COMAR 10.65.03.03 and .09

Advertising: COMAR 10.65.04.01 through .03 and .06

Continuing Education Requirements: COMAR 10.65.05.01 through .04

Record Keeping: COMAR 10.65.06.01 and .02

Fees: COMAR 10.65.07.01 through .04

Licensure and Registration Examination - Special Needs Applicants:

COMAR 10.65.08.01 and .02

Sanctioning Guidelines: COMAR 10.65.09.01 through .06

According to the department, the purpose of this action is to (1) separate the Chiropractic Examiners regulations and the Massage Therapy Examiners regulations into two separate subtitles of COMAR as required by HB 1420, Chapter 739 of 2016; (2) require that massage therapy applicants attend a massage therapy school that is approved by MHEC or accredited by a certain accrediting body; and (3) delete references to approval of chiropractic trade names as required by HB 208, Chapter 229 of 2015.

Proposed Regulation

DLS Control No. 16-194

Department of Health and Mental Hygiene:

Board of Nursing - Licensed Direct-Entry Midwives:

Practice of Licensed Direct-Entry Midwives: COMAR 10.64.01.01 through .19

According to the department, the purpose of this action is to provide all new regulations for licensing Direct-Entry Midwives including, requirements for licensure, scope of practice for mothers and newborns, limits on scope of practice, rules for transfer of care, discipline, required plan of care for each direct-entry midwife, renewal and continuing education requirements, regulation of the Direct-entry Midwife Advisory Committee, and reporting requirements.

Labor, Licensing and Regulation, Department of

Proposed Regulation

DLS Control No. 16-195

Department of Labor, Licensing, and Regulation:

Racing Commission:

Satellite Simulcast Betting: COMAR 09.10.05.05

According to the department, the purpose of this action is to expand the requirements for the notice of a public hearing when the Maryland Racing Commission is considering an application for a Satellite Simulcast Betting permit.

Proposed Regulation

DLS Control No. 16-196

Department of Labor, Licensing, and Regulation:

Racing Commission:

Prohibited Acts: COMAR 09.10.03.01

According to the department, the purpose of this action is to add a secondary threshold of ketoprofen, which, if detected above the permitted threshold would constitute a violation if it is found in combination with one of two other non-steroidal anti-inflammatory medications.

Environment, Department of the

Proposed Regulation

DLS Control No. 16-197

Department of the Environment:

Regulation of Water Supply, Sewage Disposal, and Solid Waste:

**Sewage Disposal and Certain Water Systems for Homes and Other Establishments
in the Counties of Maryland Where a Public Sewage System is Not Available:**

COMAR 26.04.02.07

According to the department, the purpose of this action is to remove the universal requirement that Best Available Technology for Removal of Nitrogen (BAT) systems be installed outside the Critical Area for all new construction or replacement septic systems, unless the local governing body enacts code in order to protect public health or waters of the State, or the system design is 5,000 gallons per day or greater.

Insurance Administration, Maryland

Proposed Regulations

DLS Control No. 16-191

Maryland Insurance Administration:

Property and Casualty Insurance:

Application of a Percentage Deductible in the Case of a Hurricane or Other Storm:

COMAR 31.08.13.03, .04, and .06

According to the administration, the purpose of this action is to (1) amend 31.08.13.03 to remove the definition of “other storm” as House Bill 557 from the 2016 legislative session (Chapter 491 of 2016) removed the phrase in the statute; (2) amend 31.08.13.04 with a technical change to match the language from House Bill 557; and (3) repeal COMAR 31.08.13.06 to remove the Annual Statement requirement to be consistent with House Bill 557 from the 2016 legislative session (Chapter 491 of 2016) which incorporated the annual statement requirements into the statute.

Proposed Regulation

DLS Control No. 16-192

Maryland Insurance Administration:

Life Insurance and Annuities:

Charitable Gift Annuities: COMAR 31.09.07.04

According to the administration, the purpose of this action is to amend COMAR 31.09.07.04 with a technical change to remove the phrase “to endowment funds” as endowment funds do not relate to segregated reserves in this context. Additionally, an inaccurate cross reference in regulation .04B is being corrected.

Proposed Regulations

DLS Control No. 16-198

Maryland Insurance Administration:

Property and Casualty Insurance:

Liability of Insurer - Failure to Act in Good Faith:

COMAR 31.08.11.01, .02, .04, .05, and .07

According to the administration, the purpose of this action is to amend Regulations .01 and .02 to (1) update the Maryland Insurance Administration’s review of carriers failure to act in good faith in the handling of an individual disability claim based on the 2016 passage of House Bill 990; (2) amend Regulations .04, .05, and .07 to update the address of the Maryland Insurance Administration for the filing of the claims and the Insurer’s response; and (3) amend Regulation .04 to fix a typographical error in the word “identified”.

Education, State Board of

Proposed Regulations

DLS Control No. 16-200

State Board of Education:

Special Instructional Programs:

Provision of a Free Appropriate Public Education:

COMAR 13A.05.01.03, 05, .06, .07, and .08

According to the board, the purpose of this action is to provide updates to (1) terminology; (2) statutory or regulatory citations; and (3) cross references to the regulations that govern Maryland Infants and Toddlers Programs.

Procurement Regulations, State

Proposed Regulations

DLS Control No. 16-199

State Procurement Regulations:

General Provisions:

Terminology: COMAR 21.01.02.01

State Procurement Organization: Board of Public Works: COMAR 21.02.01.04

Department of Budget and Management: COMAR 21.02.03.02 and .03

Specifications: General Policies: COMAR 21.04.01.03

Procurement Methods and Project Delivery Methods: General Provisions:

COMAR 21.05.01.01

Sole Source Procurement: COMAR 21.05.05.04

Mandatory Written Solicitation Requirements: COMAR 21.05.08.03, .04, and .07

Procurement of Human, Social, Cultural, and Educational Services:

COMAR 21.05.12.01 through .07

Contract Formation and Award: Bid and Contract Security/Bonds:

COMAR 21.06.07.09 and .10

Invoicing, Payment, and Interest on Late Payments: COMAR 21.06.09.01 through .06

Contract Terms and Conditions: Mandatory Contract Provisions - All Contracts (except as provided under COMAR 21.05.07, 21.07.02, and 21.07.03):

COMAR 21.07.01.08, .18, .20, .25, and .26

Mandatory Construction Contract Clauses: COMAR 21.07.02.04

Socioeconomics Policies: Minority Business Enterprise Policies: COMAR 21.11.03.09

Vending Facilities on Property Controlled by Department of General Services:

COMAR 21.11.09.01 and .02

Veteran-Owned Small Business Enterprises: COMAR 21.11.13.02 and .05

Procurement of Architectural Services and Engineering Services: Department of General Services; A/E Services Exceeding \$200,000: COMAR 21.12.04.10 and .10-1

Department of General Services A/E Services \$200,000 or Less: COMAR 21.12.05.01

Procurement of Human, Social, Cultural, and Educational Services: General

Regulations: COMAR 21.14.01.01 through .06

According to the department, the purpose of this action is to update the Code of Maryland Regulations for State Procurement (Title 21). Revisions include: corrections to outdated or invalid terminology, references, and typographical errors; clarifications of the scope or requirements of specific regulations to prevent inconsistent interpretations or applications of those regulations; revisions to coincide with recent statutory changes; moving the chapter for Procurement of Human, Social, Cultural, and Educational Services under Subtitle 5, Procurement Methods and Project Delivery Methods; standardization of practices for power of attorney with respect to bid bonds; clarification of the counting of vendors certified as both Veteran-owned Small Business Enterprises (VSBE) and Minority Business Enterprises (MBE) towards MBE and VSBE goals; and the implementation of regulations for contract invoicing, payment, and interest on late payments.

Retirement and Pension System, State

Proposed Regulation

DLS Control No. 16-190

State Retirement and Pension System:

Board of Trustees:

Investment Division - Brokerage Commissions: COMAR 22.03.05.01 through .03

According to the State Retirement Agency, the purpose of this action is to repeal regulations regarding brokerage commissions generated by the State Retirement Agency and external managers of the State Retirement and Pension System. In place of the regulations, the Board of Trustees has adopted written policies and procedures for the procurement of these services in accordance with State Finance and Procurement Article, § 12-401, Annotated Code of Maryland, which policies are set forth in the Investment Policy Manual of the Board of Trustees, available on the website for the Maryland State Retirement and Pension System.